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May 14, 2012

PUBLIC REFERENCE COPY

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VIA HAND DELIVERY

FILED/ACCEPTED

MAY 14 2012

Federal Communications Commission
Office of the Secretary

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A306
Washington, D.C. 20554

**Re: Petition of Carolina West Wireless, Inc., for Designation as an Eligible
Telecommunications Carrier in Additional Service Areas in the
State of North Carolina**

WC Docket No. 09-197, AU Docket No. 12-25, WT Docket No. 10-208

Dear Secretary Dortch:

On behalf of Carolina West Wireless, Inc. (SAC 239004) ("Carolina West" or the "Company"), please find enclosed a redacted public version of Carolina West's Petition for Designation as an Eligible Telecommunications Carrier in Additional Service Areas in the State of North Carolina ("Petition"), submitted pursuant to the *February 24 Public Notice* released by the Commission. The enclosed Petition has been marked "**REDACTED --FOR PUBLIC INSPECTION.**"

Carolina West is also submitting to the Commission, by hand delivery, a confidential version of the Petition. The confidential version has been marked "**CONFIDENTIAL -- NOT FOR PUBLIC INSPECTION.**"

* *Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I*, Public Notice, DA 12-271 (rel. Feb. 24, 2012), 77 Fed. Reg. 14012 (Mar. 8, 2012) ("*February 24 Public Notice*").

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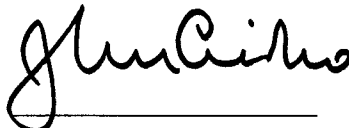
Marlene H. Dortch, Secretary
Federal Communications Commission
May 14, 2012
Page 2

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Four copies of this filing are enclosed. An additional copy of the filing also has been provided, which you are requested to date-stamp and return in the envelope provided.

Please contact the undersigned at 703-584-8686 if any questions arise concerning the above-referenced enclosure or if you require any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "John Cimko", written over a horizontal line.

David A. LaFuria
Steven M. Chernoff
John Cimko

Attorneys for:
Carolina West Wireless, Inc.

Enclosure

ENCLOSURE

REDACTED – FOR PUBLIC INSPECTION

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Telecommunications Carriers Eligible To)	WC Docket No. 09-197
Receive Universal Service Support)	
)	
Mobility Fund Phase I Auction)	AU Docket No. 12-25
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208
)	
Carolina West Wireless, Inc.)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of North Carolina)	

**PETITION OF CAROLINA WEST WIRELESS, INC.,
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
IN ADDITIONAL SERVICE AREAS IN THE STATE OF NORTH CAROLINA**

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May 14, 2012

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Telecommunications Carriers Eligible To)	WC Docket No. 09-197
Receive Universal Service Support)	
)	
Mobility Fund Phase I Auction)	AU Docket No. 12-25
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Carolina West Wireless, Inc.)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of North Carolina)	

**PETITION OF CAROLINA WEST WIRELESS, INC.,
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
IN ADDITIONAL SERVICE AREAS IN THE STATE OF NORTH CAROLINA**

1. Carolina West Wireless, Inc. (“Carolina West” or the “Company”), pursuant to Section 214(e) of the Communications Act of 1934 (“Act”)¹ and Sections 54.201 through 54.207 of the Commission’s Rules,² hereby submits this Petition for designation as an Eligible Telecommunications Carrier (“ETC”) in additional areas of North Carolina for the purpose of participating in the High-Cost Universal Service Fund (“USF”) support mechanism, including the newly established Mobility Fund,³ and in the Lifeline support

¹ 47 U.S.C. § 214(e).

² 47 C.F.R. § 201-207.

³ *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17798-99 (paras. 389-392) (“CAF Order”), *recon.*, FCC 11-189 (rel. Dec. 23, 2011), *further recon. pending*, *Connect America Fund et al.*, 77 Fed. Reg. 3635 (Jan. 25, 2012) (providing public notice of petitions for reconsideration), *petitions*

mechanism for low-income customers (“Petition”).⁴ Carolina West seeks this expansion of its ETC designation to be conditioned upon its winning support in the Mobility Fund Phase I reverse auction scheduled for September 27, 2012 (“Auction 901”).⁵ Such a condition is contemplated and permitted in the *CAF Order*⁶ and the Commission’s rules.⁷

2. As set forth in the *CAF Order*, designation as an ETC is a requirement prior to participating in Auction 901.⁸ As demonstrated in this Petition, Carolina West meets all of the statutory and regulatory prerequisites for ETC designation for the purpose of bidding in Auction 901, and designation of the Company as an ETC for this pur-

for review pending, *Direct Commc’ns Cedar Valley v. FCC*, No. 11-9581 (10th Cir. filed Dec. 18, 2011) (and consolidated cases).

⁴ 47 C.F.R. § 400-422.

⁵ *Mobility Fund Phase I Auction Scheduled for September 27, 2012; Comment Sought on Competitive Bidding Procedures for Auction 901 and Certain Program Requirements*, Public Notice, DA 12-121 (rel. Feb. 2, 2012), 77 Fed. Reg. 7152 (Feb. 10, 2012) (“February 2 Public Notice”), at para. 1. The Commission noted in the *February 2 Public Notice* that:

Phase I of the Mobility Fund will provide up to \$300 million in one-time support to address gaps in mobile services by supporting the build-out of current-and next-generation mobile networks in areas where these networks are unavailable. . . . The support offered under Phase I of the Mobility Fund is in addition to any ongoing support provided under existing high-cost universal service program mechanisms.

Id. at para. 6 (footnotes omitted). See *CAF Order*, 26 FCC Rcd at 17831 (para. 517).

⁶ *CAF Order*, 26 FCC Rcd at 17799 (para. 391 n.665), 17809 (para. 439).

⁷ See 47 C.F.R. § 54.1003(a) (stating that “[t]he applicant’s designation as an Eligible Telecommunications Carrier may be conditional subject to the receipt of Mobility Fund support”); *Mobility Fund Phase I Auction Scheduled for September 27, 2012, Notice and Filing Requirements and Other Procedures for Auction 901*, AU Docket No. 12-25, Public Notice, DA 12-641 (rel. May 2, 2012) (“May 2 Public Notice”), at para. 94.

⁸ *CAF Order*, 26 FCC Rcd at 17798 (para. 389). See *May 2 Public Notice* at para. 94; *Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I*, Public Notice, DA 12-271 (rel. Feb. 24, 2012), 77 Fed. Reg. 14012 (Mar. 8, 2012) (“February 24 Public Notice”) (setting forth the requirements for ETC designation to participate in Auction 901 for Mobility Fund Phase I support), as modified by Erratum, FCC Public Notice, DA 12-271 (rel. Feb. 27, 2012); 47 C.F.R. § 54.1003(a) (stating that “an applicant shall be an Eligible Telecommunications Carrier in an area in order to receive Mobility Fund Phase I support for that area”).

pose in the areas requested in North Carolina will serve the public interest by enabling Carolina West to participate in Auction 901 and, if Carolina West is successful in the reverse auction, to use Mobility Fund Phase I support to deploy third generation (“3G”) service in service areas in which such service currently is not available.

3. Sections 214(e) and 254 of the Act⁹ expressly authorize the Commission to designate Carolina West as an ETC. Section 214(e)(6) of the Act¹⁰ provides that the Commission may designate a common carrier as an ETC where, as here, that carrier’s services are not subject to the jurisdiction of a state commission. Carolina West is providing with this Petition an affirmative statement from the North Carolina Utilities Commission that it lacks jurisdiction over wireless providers for purposes of ETC designations.¹¹

4. Carolina West respectfully requests that the Commission grant this Petition expeditiously so that the Company may participate in Auction 901 in the expanded areas described herein,¹² and so that more North Carolina residents are able to benefit from the high-quality and high-value services that the Company offers in the state. As noted above, wireless carrier wishing to participate in Auction 901 must be designated as

⁹ 47 U.S.C. §§ 214(e), 254.

¹⁰ 47 U.S.C. §§ 214(e)(6).

¹¹ See Exhibit A.

¹² See *February 24 Public Notice* at para 2 (encouraging any party “that wishes to participate in Auction 901 with respect to an area for which it is not already designated an ETC [to] initiate the designation process as soon as possible to increase the likelihood that the process will be completed prior to the deadline for submitting an application for Auction 901”).

an ETC at the time it submits its short-form application.¹³ The deadline for short-form applications for Auction 901 is July 11, 2012.¹⁴

I. BACKGROUND.

A. Carolina West Wireless, Inc.

5. Carolina West, headquartered in Wilkesboro, North Carolina, is a commercial mobile radio service ("CMRS") carrier licensed by the Commission to provide mobile service¹⁵ throughout portions of North Carolina. The Company has constructed a digital network in North Carolina, and has operated continuously in western markets in the state for nearly two decades.¹⁶ Carolina West is owned by three rural telephone companies with long histories of providing quality service in their market areas. As consumers in rural America seek faster broadband speeds, Carolina West, through participation

¹³ See para. 2, *supra*.

¹⁴ *May 2 Public Notice* at para. 113.

¹⁵ The Act defines "mobile service" as follows:

The term "mobile service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:

(A) both one-way and two-way radio communication services,

(B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and

(C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.

47 U.S.C. § 153(27).

¹⁶ See North Carolina RSA 3 Cellular Telephone Company, Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina, CC Docket No. 96-45 (filed June 8, 2004), at para. 5.

in USF support mechanisms such as the Mobility Fund Phase I funding mechanism, is committed to delivering 3G data services and, eventually, fourth generation (“4G”) data services, throughout rural, underserved markets in which it operates.¹⁷

6. Carolina West was first designated as an ETC in North Carolina on August 14, 2006.¹⁸ In ordering the designation of Carolina West as an ETC, the Wireline Competition Bureau (“Bureau”) found that “Carolina West’s universal service offering will provide a variety of benefits to customers including consumer choice and advantageous service offerings. For instance, universal service support will enable Carolina West to construct facilities to improve quality of service and extend telephone service to people who have no choice of telephone provider[.]”¹⁹ and that “Carolina West will use support to offer a basic universal service package to subscribers who are eligible for Lifeline support and Carolina West has made detailed commitments to provide high quality service throughout the proposed service areas for which it seeks designation.”²⁰ The Bureau also noted that:

The mobility of Carolina West’s wireless service will provide further benefits to consumers, such as access to emergency services in geographically isolated areas. Carolina West’s designation as an ETC also will potentially allow its customers to be subject to fewer toll charges and provide cus-

¹⁷ See *CAF Order*, 26 FCC Rcd at 17781 (para. 322) (stating that “[t]he goal of the Mobility Fund Phase I is to extend the availability of mobile voice service on networks that provide 3G or better performance and to accelerate the deployment of 4G wireless networks in areas where it is cost effective to do so with one-time support”).

¹⁸ *Federal-State Joint Board on Universal Service, North Carolina RSA 3 Cellular Telephone Company, Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina*, CC Docket No. 96-45, Order, 21 FCC Rcd 9151 (Wireline Comp. Bur. 2006).

¹⁹ *Id.* at 9156 (para. 17).

²⁰ *Id.* at 9156 (para. 18) (footnote omitted).

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tomers access to premium services such as numeric paging, call forwarding, and call waiting.²¹

7. Carolina West has access to the spectrum necessary to satisfy the applicable performance requirements established by the Commission.²² Carolina West currently holds the following licenses and leases for various radio services in North Carolina:

RADIO SERVICE	CALL SIGN	MARKET
Advanced Wireless	WQGB254	CMA166 – Hickory, NC (all counties)
Advanced Wireless	WQGB255	CMA183 – Asheville, NC (all counties)
Advanced Wireless	WQGB256	CMA565 – North Carolina 1 – Cherokee (all counties)
Advanced Wireless	WQGB257	CMA566 – North Carolina 2 – Yancey (all counties)
Advanced Wireless	WQGB258	CMA567 – North Carolina 3 – Ashe (all counties)
Advanced Wireless	WQGB259	CMA568 – North Carolina 4 – Henderson (all counties)
Cellular	KNKN881	CMA566 – North Carolina 2 – Yancey (certain counties) ²
Cellular	KNKN693	CMA567 – North Carolina 3 – Ashe (all counties)
PCS Broadband	WQCZ723	BTA189 – Hickory-Lenoir-Morganton, NC (all counties)
PCS Broadband	WQHG463	BTA020 – Asheville-Hendersonville, NC (all counties)
PCS Broadband	L000007757 ³	BTA074 – Charlotte-Gastonia, NC
PCS Broadband	L000007758 ⁴	BTA177 – Greenville-Spartanburg, SC (one county)

¹ Carolina West has not yet undertaken any deployment of facilities in any North Carolina areas in which it holds advanced wireless service licenses.

² Avery County and Watauga County, North Carolina.

³ Lease agreement with SprintCom, Inc. (licensee).

⁴ Lease agreement with WirelessCo, L.P. (licensee).

8. Carolina West also is a member-owner of Clear Stream Communications, LLC (“CSC”), a limited liability company formed under the laws of North Carolina, which participates in Verizon Wireless’s “LTE in Rural America” program. Pursuant to this program, Verizon Wireless and CSC have entered into a leasing agreement for the purpose of allowing CSC to use Verizon Wireless’s spectrum rights for a new commercial broadband wireless service offering in the following markets in North Carolina: Alleghany County, Ashe County, and Surry and Wilkes Counties.

²¹ *Id.* at 9156-57 (para. 18) (footnotes omitted).

²² *See CAF Order*, 26 FCC Rcd at 17798-17801 (paras. 388-399); 47 C.F.R. § 54.1003(b).

B. Designation of Eligible Telecommunications Carriers.

9. Sections 214(e) and 254 of the Act²³ expressly authorize the Commission to designate Carolina West as an ETC. Section 214(e)(6) of the Act provides that the Commission may designate a common carrier as an ETC where, as here, that carrier's services are not subject to the jurisdiction of a state regulatory commission.²⁴ That provision further states that the Commission may, in the case of any area served by a rural telephone company, and shall, in the case of any other area, designate more than one common carrier as an ETC, provided the requesting carrier (1) offers services that are supported by federal universal service support mechanisms; and (2) advertises the availability of such services.²⁵ The Commission's rules impose additional requirements on a common carrier seeking designation as an ETC. As demonstrated in the following sections,²⁶ Carolina West satisfies each of these requirements.

C. Description of Carolina West's Proposed Additional ETC Service Areas.

10. Carolina West, in its capacity as a provider of cellular service and broadband Personal Communications Service, is not a "rural telephone company" as that term is defined in Section 3(37) of the Act.²⁷ Accordingly, Carolina West is required to de-

²³ 47 U.S.C. §§ 214(e), 254.

²⁴ 47 U.S.C. § 214(e)(6). The North Carolina Utilities Commission has confirmed that wireless communications carriers, such as Carolina West, are not subject to state jurisdiction for purposes of ETC designation. See Exhibit A.

²⁵ 47 U.S.C. § 214(e)(6).

²⁶ See Sections III and IV, *infra*.

²⁷ 47 U.S.C. § 153(37). Section 3(37) of the Act provides that:

The term "rural telephone company" means a local exchange carrier operating entity to the extent that such entity—

scribe the geographic area in which it requests designation.²⁸ In this Petition, Carolina West requests ETC designation in certain areas served by incumbent local exchange carriers (“LECs”) classified as “non-rural” and “rural,” respectively. These areas are set forth in Exhibit B.²⁹

11. Pursuant to Section 54.207 of the Commission’s Rules,³⁰ a “service area” is a “geographic area established by a state commission for the purpose of determining

(A) provides common carrier service to any local exchange carrier study area that does not include either—

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

Carolina West does not meet any of the criteria established in the definition.

²⁸ See 47 U.S.C. § 214(e); *February 24 Public Notice* at para. 6.

²⁹ See Exhibit B (List of Rural and Non-Rural Study Areas and Wire Centers To Be Served by Carolina West in Its Proposed Additional ETC Service Area). To the extent that any wire centers have been inadvertently excluded from Exhibit B, the Company seeks designation in certain wire centers in the study areas of the following non-rural incumbent LECs: BellSouth Telecomm Inc., d/b/a Southern Bell Tel. & Tel. and Verizon South Inc.-NC (Contel). The Company seeks designation throughout the entire study areas of the following rural LECs: Barnardsville Tel. Co., Citizens Tel. Co., Saluda Mountain Tel. Co.; and Surry Tel. Membership Corp. (within the sole wire center not covered by the Company’s existing ETC designation). Lastly, the Company seeks designation in certain wire centers of the following rural incumbent LECs: Central Tel. Co. of NC and Windstream North Carolina, Inc. As discussed in paragraph 13 of this Petition, these rural LECs’ service areas were already redefined at the wire-center level; accordingly, no further redefinition is required and the Commission’s designation of Carolina West in these areas would take effect immediately.

³⁰ 47 C.F.R. § 54.207.

universal service obligations and support mechanisms.”³¹ In an area served by a rural telephone company, the Commission’s rules define “service area” to mean the LEC study area unless a different definition of service area is established for the rural company.³² As set forth herein and in Exhibit B, the Commission may designate Carolina West throughout its proposed ETC service area without the need for redefinition.

12. First, Carolina West’s requested ETC service area includes wire centers of non-rural incumbent LECs and entire study areas of rural incumbent LECs. The Company seeks designation in certain wire centers in the study areas of the following non-rural incumbent LECs: BellSouth Telecomm Inc., d/b/a Southern Bell Tel. & Tel. and Verizon South Inc.-NC (Contel). Also, the Company seeks designation throughout the entire study areas of the following rural LECs: Barnardsville Tel. Co., Citizens Tel. Co., Saluda Mountain Tel. Co.; and Surry Tel. Membership Corp. (within the sole wire center not covered by the Company’s existing ETC designation).³³

13. Second, the Carolina West’s proposed ETC service area includes portions of rural incumbent LEC service areas³⁴ that have already been redefined pursuant to the process set forth in Section 54.207 of the Commission’s Rules.³⁵ Specifically, the Com-

³¹ 47 C.F.R. §54.207(a).

³² 47 C.F.R. §54.207(b). *See Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket Nos. 96-45, 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, Further Notice of Proposed Rulemaking, Report and Order, 16 FCC Rcd 11244 (2001).

³³ To the extent that any wire centers of these incumbent LECs have been inadvertently excluded from Exhibit B, the Company clarifies that it commits to offer and advertise the supported services throughout the entire study area of each of Barnardsville Tel. Co., Citizens Tel. Co., Saluda Mountain Tel. Co.; and Surry Tel. Membership Corp.

³⁴ Only entire wire centers are included within the Carolina West’s proposed ETC service area.

³⁵ 47 C.F.R. §. 54.207.

pany seeks designation in certain wire centers of the following rural incumbent LECs: Central Tel. Co. of NC and Windstream North Carolina, Inc. These rural LECs' service areas have already been redefined at the wire-center level by the Commission and the relevant state authorities.³⁶ Accordingly, no further redefinition is required and the Commission's designation of Carolina West in these areas would take effect immediately.³⁷

II. NORTH CAROLINA DOES NOT REGULATE CMRS CARRIERS FOR ETC DESIGNATION PURPOSES.

14. Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific universal service support."³⁸ The Act reserves the authority to designate entities as ETCs to state public utility commissions.³⁹ Pursuant to Section 214(e)(6), however, the Commission may designate as an ETC "a common carrier providing telephone exchange service and

³⁶ *Designation of Carrier Eligible for Universal Service Support – Petition of North Carolina RSA 3 Cellular Telephone Company, d/b/a Carolina West Wireless for Commission Concurrence in Redefining Certain Rural Service Areas*, Docket No. P-100, SUB 133e, Order of Concurrence (N.C. Util. Comm'n, Dec. 1, 2008); *Petition by Carolina West Wireless for NCREA Concurrence in Redefining Certain Rural Service Areas*, Docket No. TMC 6, Sub 2, Order of Concurrence (N.C. Rural Electrification Auth., Nov. 17, 2008); *Designation of Carriers Eligible for Universal Service Support – Petition of US Cellular for Commission Concurrence in Redefining Certain Service Areas*, Docket No. P-100, SUB 133e, Order of Concurrence (N.C. Util. Comm'n, Oct. 31, 2008); *Petition of U.S. Cellular for Concurrence in Redefining Certain Rural Service Areas*, Docket Nos. TMC-3, SUB 3, TMC-4, SUB 2, and TMC-9, SUB 2, Order of Concurrence (N.C. Rural Electrification Auth., Nov. 17, 2008).

³⁷ See *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, WC Docket No. 05-337 and CC Docket No. 96-45, Order, 23 FCC Rcd 8834, 8864-67 (paras. 24, 28, 29, 31, 43) (2008) (subsequent history omitted).

³⁸ 47 U.S.C. § 254(e).

³⁹ *Id.*

exchange access that is not subject to the jurisdiction of a state commission”⁴⁰ The Commission has established that a carrier must demonstrate that it “is not subject to the jurisdiction of a state commission” before the Commission will review any ETC designation application.⁴¹ The Commission also has stated that any carrier seeking ETC designation from the Commission must provide an “affirmative statement” from the state commission involved that it lacks jurisdiction to perform the ETC designation.⁴²

15. The North Carolina Utilities Commission has affirmatively stated that it lacks jurisdiction over wireless providers for purposes of ETC designations. The Order attached as Exhibit A meets the FCC’s requirements for an “affirmative statement” from a state commission that requests for ETC designation are not within its jurisdiction and should be sought from the FCC.⁴³ Accordingly, Carolina West requests that the Commission designate it as “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission. . . .”⁴⁴

⁴⁰ 47 U.S.C. § 214(e)(6).

⁴¹ *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 29947, 29948 (1997).

⁴² *See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriber-ship in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 (para. 113) (2000) (“*Twelfth Report and Order*”); *February 24 Public Notice* at para. 5.

⁴³ *See Twelfth Report and Order*, 15 FCC Rcd at 12214 (para. 7).

⁴⁴ 47 U.S.C. § 214(e)(6).

III. CAROLINA WEST SATISFIES ALL OF THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC.

16. As demonstrated in the following sections, Carolina West satisfies each of the statutory and regulatory prerequisites for designation as an ETC, as set forth in the Act and the Commission's rules.

A. Carolina West Is a Common Carrier.

17. Section 3(10) of the Act, defines a common carrier as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio" ⁴⁵ Carolina West meets the definition of a person, offers interstate communications by radio, and is a common carrier for hire. As a CMRS carrier, Carolina West is regulated as a common carrier. ⁴⁶

B. Carolina West Will Provide the Supported Services Through a Combination of Facilities-Based Service and (If Necessary) Resale.

18. In accordance with Section 214(e)(1)(A) of the Act, ⁴⁷ Carolina West will provide the supported services specified in Section 54.101(a) of the Commission's Rules ⁴⁸ in the expanded areas using the same infrastructure and in the same manner in which it provides the supported services in its existing North Carolina ETC service area. Specifically, Carolina West will provide the supported services: (1) by using Carolina West's existing cellular network infrastructure, which consists of switching, trunking, cellular sites, and network equipment, together with any expansions and enhancements to

⁴⁵ 47 U.S.C. § 153(10). See 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

⁴⁶ 47 C.F.R. § 20.9(a).

⁴⁷ 47 U.S.C. § 214(e)(1)(A). See 47 C.F.R. §§ 54.201(d)(1), 54.405.

⁴⁸ 47 C.F.R. § 54.101(a).

that network;⁴⁹ and (2) should it become necessary, through the resale of another carrier's service. The Company may consider the use of resale as an option only. Carolina West has the technical capability to maintain its facilities in emergencies. Upon designation as an ETC, Carolina West will report annually any expansions and enhancements to its network within its proposed ETC designation area at the same time it submits its reports and annual certification required under the Commission's Rules.⁵⁰ Therefore, Carolina West meets the requirement that it provide the supported services using its own facilities.⁵¹

C. Carolina West Will Offer All of the Services and Functionalities Supported by the Universal Service Program.

19. To be designated an ETC, the Act requires carriers to certify that they provide each of the supported services.⁵² Attached as Exhibit C is a sworn declaration that Carolina West offers, "or will be able to offer, all of the services designated for support by the Federal Communications Commission"⁵³ in the expanded areas requested herein. Since its designation in 2006, Carolina West has offered the supported services through-

⁴⁹ See 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

⁵⁰ 47 C.F.R. §§ 54.313, 54.314.

⁵¹ 47 U.S.C. § 214(e)(1)(A). See *February 24 Public Notice* at para. 5; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8870-71 (1997) (subsequent history omitted) (noting that "[w]e conclude, therefore, that, if a carrier uses its own facilities to provide at least one of the designated services, and the carrier otherwise meets the definition of 'facilities' adopted above, then the facilities requirement of section 214(e) is satisfied"); *id.* at 8871 (indicating that "section 214(e) does not mandate the use of any particular level of a carrier's own facilities").

⁵² See, e.g., 47 U.S.C. §§ 214(e)(1)(A), 254(c); 47 C.F.R. § 54.201(d)(1); *February 24 Public Notice* at para. 5.

⁵³ *Designation of Fort Mojave Telecommunications, Inc., et al., as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, AAD/USB File No. 98-28, Memorandum Opinion and Order, 13 FCC Rcd 4547, 4552 (para. 11) (1998) ("*Fort Mojave Order*"). In the *Fort Mojave Order*, the Commission made it clear that it will designate carriers as ETCs, pursuant to Section 214(e)(6) of the Act, upon finding that they "offer or will be able to offer" the supported services throughout the service areas involved.

out its designated ETC service area. Upon a grant of this Petition, Carolina West will offer all of the supported services as set forth in the Commission's rules, as recently modified by the *Lifeline Reform Order*,⁵⁴ throughout the expanded areas in which Carolina West is requesting designation as an ETC.⁵⁵ In addition, Carolina West will use Mobility Fund Phase I support to offer a basic universal service package to subscribers who are eligible for Lifeline support.⁵⁶ Carolina West is committed to providing high quality universal service offerings in North Carolina and will ensure that the supported services are available throughout the designated service area to all customers who make a reasonable request for service.

1. Voice-Grade Access to the Public Switched Telephone Network.

20. Carolina West offers customers voice grade access to the Public Switched Telephone Network, as required by Section 54.101(a)(1) of the Commission's Rules.⁵⁷ "Voice grade access" permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive

⁵⁴ *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012), 77 Fed. Reg. 12952 (Mar. 2, 2012) ("*Lifeline Reform Order*").

⁵⁵ See 47 C.F.R. § 54.101(a). As recently modified, the Commission's rules have identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms:

Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911 systems . . . ; and toll limitation services to qualifying low-income consumers as described in subpart E of this part.

47 C.F.R. § 54.101(a) (as modified by the *Lifeline Reform Order*).

⁵⁶ See 47 C.F.R. § 54.405(a); *Lifeline Reform Order*.

⁵⁷ 47 C.F.R. § 54.101(a)(1).

voice communications, including receiving a signal that there is an incoming call. Carolina West will provide its customers with “voice grade access” by providing mobile voice communications service and by enabling such customers to make and receive calls on the Public Switched Telephone Network.

2. Minutes of Use for Local Service at No Additional Charge.

21. Carolina West’s service in North Carolina includes local usage that allows customers to originate and terminate calls within a local calling area without incurring toll charges. Carolina West will continue to offer service plans that include varying amounts of local usage. Carolina West will comply with any and all minimum local usage requirements the Commission may adopt with respect to universal service offerings. Therefore, Carolina West satisfies the local usage criterion for ETC designation.

3. Access to Emergency Services.

22. Carolina West will provide access to emergency services in conformance with the Commission’s requirements. All of the handset devices that Carolina West will distribute to subscribers will be capable of delivering automatic numbering information and automatic location information, and otherwise satisfy applicable enhanced-911 requirements. Carolina West also will meet all requests for E911 service received from Public Service Answering Points.

4. Lifeline; Toll Limitation.

23. Certain low-income consumers in North Carolina will be eligible to pay reduced monthly fees under the Federal Lifeline program in which Carolina West will participate. A description of the Company’s Lifeline program may be accessed at <http://www.carolinawest.com/lifeline-phone-service/>.

24. Carolina West will offer toll limitation services, which may be in the form of “toll control” or “toll blocking” services, to qualifying Lifeline customers.⁵⁸ Toll blocking allows customers to block the completion of outgoing toll calls. Toll control allows the customer to limit the toll charges a subscriber may incur during a billing period. Upon designation as an ETC in the additional service areas described in this Petition, Carolina West will offer toll limitation services to Lifeline customers in those areas, at no charge. Therefore, Carolina West meets the ETC requirement of offering toll limitation services to Lifeline customers.

D. Carolina West Will Advertise the Availability of and Charges for Its Universal Service Qualifying Offerings

25. In accordance with Section 214(e)(1)(B) of the Act⁵⁹ and Section 54.201(d)(2) of the Commission’s Rules,⁶⁰ Carolina West will advertise the availability of the supported services detailed above, and the corresponding rates and charges, in a manner designed to inform the general public within its expanded North Carolina ETC service area.⁶¹

26. This advertising will occur through a combination of media channels, such as television and radio, newspaper, magazine, and other print advertisements, outdoor advertising, direct marketing, and the Internet. In addition, Carolina West will advertise the availability of Lifeline benefits throughout its expanded ETC service area by includ-

⁵⁸ 47 C.F.R. § 54.101(a). *See Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration, Report and Order, 13 FCC Rcd 5318 (1997).

⁵⁹ 47 U.S.C. § 214(e)(1)(B).

⁶⁰ 47 C.F.R. § 54.201(d)(2).

⁶¹ *See id.*; 47 U.S.C. § 214(e)(1)(B); *February 24 Public Notice* at para. 5.

ing mention of such benefits in advertising and reaching out to community health, welfare, and employment offices to provide information to those people most likely to qualify for Lifeline benefits.

E. Carolina West Will Satisfy Its Additional Obligations as an ETC.

27. In addition to those requirements set forth in Section 54.201 of the Commission's Rules,⁶² Carolina West will satisfy other ETC requirements adopted by the Commission. In particular:

1. Compliance with Service Requirements and Service Improvement Plan.

28. Section 54.202(a)(1) of the Commission's Rules⁶³ requires an ETC applicant to: (1) certify that it will comply with the service requirements applicable to the support it receives; and (2) submit a service improvement plan that describes proposed improvements or upgrades to the applicant's network throughout its proposed service area.⁶⁴

a. Compliance with Service Requirements.

29. Carolina West certifies that it will comply with the service requirements applicable to the support that it receives.⁶⁵ It will provide service throughout the proposed designated ETC area using its standard customer equipment and service offerings where available.

⁶² 47 C.F.R. § 54.201.

⁶³ 47 C.F.R. § 54.202(a)(1) (as modified by the *Lifeline Reform Order*).

⁶⁴ 47 C.F.R. § 54.202(a)(1)(i)-(ii). See *February 24 Public Notice* at para. 5.

⁶⁵ See 47 C.F.R. § 54.202(a)(1)(i).

b. Service Improvement Plan.

30. Carolina West submits its proposed Service Improvement Plan (“Plan”), attached hereto as Exhibit D, in accordance with Section 54.202(a)(1)(ii) of the Commission’s Rules.⁶⁶ Because the Plan contains highly confidential information, the Company is confidential treatment of Exhibit D in accordance with the Commission’s Rules. The Plan describes the projected improvements in the additional service areas in the State of North Carolina in which the Company seeks ETC designation in this Petition.

31. The Plan reflects capital expenditures that exceed the level of expenditures Carolina West would be able to commit in the absence of Mobility Fund Phase I support. Moreover, as set forth in the Plan, the Company will incur expenses in order to upgrade and maintain its existing network in the areas in which the Company seeks designation, in order to provide 3G service in those areas.

32. Carolina West’s Plan is contingent upon receiving funding through Mobility Fund Phase I. Further, the Plan must be flexible in order to respond to general consumer demand, changes in technology, and other appropriate factors, and, thus, the Plan, including the priority of construction of each cellular site, is subject to change for these reasons. The Company commits to provide the Commission with annual progress reports consistent with Section 54.213(a)(1) of the Commission’s Rules.⁶⁷

33. The Plan satisfies the ETC designation requirements and constitutes a good faith estimate of the universal service benefits, including expanded coverage and improved signal and service quality, which citizens of the State of North Carolina will

⁶⁶ 47 C.F.R. § 54.202(a)(1)(ii).

⁶⁷ 47 C.F.R. § 54.213(a)(1).

enjoy if the Commission designates Carolina West as an ETC in the additional requested service areas and the Company is successful in obtaining Mobility Fund Phase I support.

2. Ability To Remain Functional in Emergency Situations.

34. Carolina West will be able to remain functional in emergency situations in the expanded area, as it is in its existing ETC service area.⁶⁸ The Company's network is designed to remain functional in emergency situations. Specifically, Carolina West (1) will have adequate amounts of back-up power to ensure functionality without an external power source; (2) will be able to reroute traffic around damaged facilities; and (3) will be capable of managing traffic spikes resulting from emergency situations.⁶⁹

35. Carolina West's system is reinforced by the presence of fixed power generator backups at remote sites, and by six-hour battery-powered back-up generators at all sites. In addition, the Company maintains a fleet of portable generators that can be moved to individual cellular sites, as needed. The Company also has ready access to alternate generators if the need for such generators should arise.

36. Carolina West's switch connectivity to the public switched voice network is based on a protected ring topology and is redundant—traffic can be re-routed if necessary. All cellular sites are covered by the availability of emergency support on a 24-hours-per-day, seven-days-per-week basis. Response time to an outage report is normally less than 30 minutes.

⁶⁸ See 47 C.F.R. § 54.202(a)(2); *February 24 Public Notice* at para. 6.

⁶⁹ See 47 C.F.R. § 54.202(a)(2).